IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 25421 of 2007(B)

PETITIONER:

A.BALAN, S/O. KELUKUTTY,
AMMAMPALATH HOUSE, P.O.PANTHEERANKAVU,
KOZHIKODE DISTRICT.

BY ADV. SRI.N.SUBRAMANIAM
SRI.M.S.NARAYANAN

RESPONDENT:

THE OLAVANNA GRAMA PANCHAYATH,
G.A.COLLEGE P.O., KOZHIKODE,
REP. BY ITS SECRETARY.

BY ADV. SRI.P.V.KUNHIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.25421/2007 B

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF SALE DEED IN FAVOUR OF THE PETITIONER.**

EXT.P2: **COPY OF THE NOTICE ISSUED TO THE PETITIONER FROM THE RESPONDENT PANCHAYATH.**

EXT.P3: **COPY OF THE PROVISIONAL ORDER ISSUED FROM THE RESPONDENT PANCHAYATH.**

EXT.P4: **COPY OF THE RECEIPT ISSUED BY THE RESPONDENT PANCHAYATH.**

EXT.P5: **COPY OF THE NOTICE ISSUED TO THE PETITIONER FROM THE RESPONDENT PANCHAYATH.**

EXT.P6: **COPY OF THE REPLY NOTICE CAUSED TO BE ISSUED BY THE PETITIONER.**

/TRUE COPY/

P.S.TO JUDGE

KSS

PIUS C. KURIAKOSE, J.

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W.P.(C)No.25421 OF 2007

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DATED THIS THE 10TH SEPTEMBER, 2007

J U D G M E N T

In this Writ Petition, the petitioner challenges Ext.P5 order issued by the respondent-Panchayat. In Ext.P5 it is alleged that the petitioner, in spite of Ext.P3 provisional order under Section 406(1) is continuing with further construction of his shed having door No.243 and on that basis directs him to stop further constructions immediately. The petitioner contends that no further constructions are being carried out by him as alleged in Ext.P5.

2. Sri.P.V.Kunhikrishnan, counsel for the Panchayat points out that pursuant to Ext.P3 provisional order, no final orders have been passed by the Panchayat. But Ext.P5 was issued when it was noticed that even pending finalisation of Ext.P3, the petitioner was going ahead effecting further constructions.

3. Mr.M.S.Narayanan, counsel for the petitioner would draw my attention to Ext.P4 and submit that it was after Ext.P3 was finalised that fresh licence was issued to the petitioner for carrying out business in the building having door No.243 and Ext.P5 is totally contrary to facts.

4. Having regard to the rival submissions addressed at the Bar,

I am of the view that interests of justice will be served if the Writ Petition is disposed of issuing the following directions:-

The Panchayat will hear the petitioner on the objection filed by him to Ext.P3 and also on the grounds raised by the petitioner against Ext.P5 through Ext.P6 reply sent through lawyer and then take a final decision on the issue as to whether the petitioner has effected any illegal constructions and whether his building having door No.XIV/243 is liable to be demolished. Once decision is taken, the petitioner will be informed of the same. Till such time as the decision is taken and the petitioner is informed of the same as directed above, the building in question will not be demolished.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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